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Document No. 1032

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Class. & Control To: TS S (C) 15 November 1949

15 NOV 1978

OGC HAS REVIEWED.

MEMORANDUM FOR: CHIEF, COAPS

SUBJECT: Wartime Status of CIA

1. I believe your draft for [] on the status of CIA in wartime is soundly approached. I understand that there is a basis for informal discussions and, consequently, this paper is merely to establish a basic position for CIA without going into the many intricate details. There are, therefore, only three points I wish to comment on. All three involve relationships with Theatre Commanders in the field which are bound by nature to be extremely complicated and touchy.

(a) Paragraph 2 h discusses espionage and counter-espionage in Theatres of Operations. I agree with the thought behind it, but believe that the phrase "within the cognizance of the Commander" is susceptible to many interpretations. Admittedly it is difficult to be clear and at the same time concise on this point. However, I don't believe there is serious question of the principle that CIA will continue to conduct espionage and counter-espionage throughout any war. They are functions that can't be shifted around from control to control. I suggest as a possible substitute for paragraph 2 h the following: "CIA will continue to conduct espionage and counter-espionage activities during wartime, but recognizing the responsibilities of Theatre Commanders, it will be the duty of CIA to keep each Theatre Commander fully informed of such espionage and counter-espionage activities as may affect his Theatre. Further, such activities will, in so far as possible, be responsive to the particular policies and requirements of Theatre Commanders through appropriate special arrangements."

(b) Paragraph 2 i speaks of covert operations outside of those set forth above. If CIA is to be responsible for administration and financial support of such covert operations, I believe it must maintain operational control

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subject to appropriate policy guidance and subject to veto power by Theatre Commanders of specific operations in the Theatres. Since NSC 10/2 indicates control will go to the JCS, I feel this should be interpreted in the light of the thought behind the NSC series to be policy guidance rather than actual control. My thought might be set forth somewhat as follows for the first sentence in paragraph 2 i: "CIA will conduct covert operations in time of war in Theatres of Operations under policy guidance of the JCS and in full coordination with the Theatre Commander concerned."

(c) The third point is not discussed in your paper and probably should not be brought up at this time, although it is mentioned in the 29 July Draft Report by JIC in paragraph 7, and again in JIGM-121 dated 20 May 1949, paragraph 7 f. Both of these assert that all communications between CIA and military theatres should be through channels established by the Joint Chiefs. This is a most important problem and a highly intricate one for the position stated by the Joint Chiefs appears not to take into consideration the fact that many of the CIA operations will be outside theatres of war, but that its communications system must service all its activities, raising most difficult technical and security problems. Obviously I am not qualified to speak in detail on this subject and ~~really~~^{may} raise the problem for further study and consideration.

LAWRENCE R. HOUSTON
General Counsel
Legal Staff

cc: Executive